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Dedicated in loving memory of
 HaRav Yosef Grossman zt"l



TERMINAL VELOCITY: MAY ONE HASTEN DEATH?

Adapted from the writings of Dayan Yitzhak Grossman

In the previous article, we considered various rulings of R' Shlomo Zalman Auerbach regarding the withholding of medical treatment and life support from a terminally ill and suffering patient; in this one, we consider the opinions of several other *poskim* on this topic.

R' MOSHE FEINSTEIN

Like R' Shlomo Zalman, R' Moshe maintains that the preservation of life is not always obligatory.

In 5728 (1968), in a responsum addressed to R' Yitzchak Yaakov Weiss, R' Moshe ruled that when physicians cannot heal a terminally ill patient but merely prolong his life for a period of limited duration (*chayei sha'ah*), this is actually **prohibited**¹ if the patient will suffer during the extension of his life. He infers this from the halacha (cited in the previous article) that it is permitted to remove an impediment to the death of a *goseis*. If it would be permitted to prolong life, even of a *chayei sha'ah* duration, even when the patient will suffer, then

on the contrary, it would be **obligatory**² to **introduce** such an impediment in order to prolong the *goseis*'s life!³

In 5742 (1982), in a responsum addressed to Dr. Neal (Naftali Zev) Ringel and Dr. Yoel Jakobovits,⁴ R' Moshe elaborates upon his position. He writes that when physicians assess that it is impossible for a patient who is suffering to become healed and recover, or to live without suffering, and the only thing they can do for him is to provide medication that will extend his life along with its attendant suffering, they should not provide such medication. They should, however, provide pain medication, as long as it will not shorten the patient's life even by a moment.⁵ Similarly, oxygen

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2 R' Moshe apparently assumes that insofar as such measures are permitted, they would be obligatory, although he provides no explicit justification for this assumption.

3 Shu"t Igros Moshe Y.D. *cheilek 2 siman 174 anaf 3*. R' Moshe is discussing keeping a prospective organ donor on life support in order to enable the harvesting of his organs, but it is clear from his argument that he is opposed to the *chayei sha'ah* extension of life in general when the patient will suffer, and he actually states this explicitly in the course of his analysis: "And since it is prohibited to do this for the sake of one's own life, a fortiori it is prohibited to do this for the sake of the lives of others."

4 Regarding Drs. Ringel and Jakobovits and their relationships with R' Moshe, see Dr. Meir Levin, Halachic Arbitrator In A Medical Maze, *Mishpacha Magazine*. <https://mishpacha.com/halachic-arbitrator-in-a-medical-maze/>.

5 Cf. Nishmas Avraham (Second Expanded Edition) Y.D. p. 484.



PARSHAS EIKEV

JUST DESSERTS

Excerpted and adapted from a shiur by
 Rav Ari Stauber

And you will eat, become satisfied, and bless Hashem your G-d for the good land that He has given you.

Devarim 8:10

According to one stage of the Gemara, this *pasuk* serves as the source for reciting a *bracha rishonah*, based on a *kal vachomer*.¹ In cases of *safeik* (where the obligation to recite a *bracha rishonah* is uncertain), the Chayei Adam, Kitzur Shulchan Aruch, and Mishnah Brurah advise to take a sugar cube and recite *shehakol* over it to exempt the uncertain food.

The most common contemporary application involves ices and ice cream. According to the Shulchan Aruch (O.C. 177), dessert (*kinuach seudah*) is not classified as part of the meal, and one recites a separate *bracha rishonah* on it. However, *Acharonim* suggest two reasons that one should not recite a *bracha* on ice cream:

First, it is more common to eat dessert today than it was in earlier times, and it has now become part of the meal. Second—

1 The Gemara concludes that simple logic is the true basis for reciting a *bracha rishonah*.

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Q&A from the
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Beyond a Shadow

Q We often picnic in a nearby park. On sunny days, it can be hard to find an available picnic table in a shady spot. There is an area at the park's edge that is shaded by a church and stays cool. May we sit there and derive benefit from the church building, or must we sit in the hot sun instead?

A The Rambam rules that Christianity is *avodah zarah* (*Hilchos Avodah Zarah* 9:4). It is forbidden to derive benefit from *avodah zarah* and all its accessories, as the Torah says, "You shall not desire the gold and silver with [idols]" (Devarim 7:25). This tells us that anything used for idol worship is *asur behana'ah*, and that includes the (continued on page 2)

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should be provided (if necessary), because this will reduce the “great suffering” of being unable to breathe.⁶

In 5744 (1984), R' Moshe addressed a follow-up responsum to his *mechutan* R' Shalom Tendler, who had expressed concern that R' Moshe's 5742 responsum—which acknowledged the basic legitimacy of the concept of “quality of life”—could be distorted by “evildoers” into a precedent for further distinctions among lives of varying quality, in support of the position that it is unnecessary to treat the mentally ill (*shoteh*) or those unable to communicate (*dommeim*). R' Moshe dismisses this concern, arguing that his ruling leaves no room for such an error, and insists that

It is certainly obvious and clear, and known to every *ben Torah* and *yerei shamayim*, that we are obligated to heal and to save, to the extent possible, every person, without regard to any distinctions in his level of wisdom and knowledge.⁷

R' Moshe then proceeds to consider the case of a suffering patient who is not terminally ill but whose suffering cannot be alleviated. Here he is less certain, but he suggests (“*efshar kedemistaveir lichorah*”) that even in such a case, we are not obligated to treat a patient who does not desire to have his life prolonged along with his suffering. R' Moshe further asserts the remarkable rule that even where it is impossible to ascertain the wishes of the patient, we can assume that he does not desire such treatment and there is thus no obligation to provide it. He adds, however, that in the vast majority of cases, the patient has family, including parents and siblings, who should be consulted about his care.⁸

R' YOSEF SHALOM ELYASHIV

Rav Elyashiv reportedly adopted a similar stance to that of R' Moshe and R' Shlomo Zalman. R' Avraham Sofer Abraham records that Rav Elyashiv instructed him that a physician is

obligated to do anything necessary to prolong life, even if he cannot treat the underlying illness—unless the patient is experiencing difficult suffering and requests that his life not be prolonged by medical treatment, in which case he may be passively (*shev v'al ta'aseh*) allowed to die.⁹

Similarly, Rav Elyashiv ruled, regarding a particular terminally ill patient, that given that he was experiencing great suffering and was in full possession of his faculties, he was permitted to decline intubation, mechanical ventilation, and dialysis, since these would only prolong his life for a period of *chayei sha'ah*. Rav Elyashiv emphasized, however, that the patient—a great *talmid chacham*—must be consulted as to his wishes.¹⁰

It is critical to note that (as per Rav Elyashiv's language cited above) the dispensations of all these *poskim* are only to **passively** withhold treatment, never to **actively** cause or accelerate death.¹¹

R' ELIEZER YEHUDA WALDENBERG

The Tzitz Eliezer has a somewhat different perspective on our topic. He discusses the case of eleven-year-old Yisroel Soloveitchik, a grandson of R' Ahron Soloveitchik, who was suffering from brain cancer. Fluid had been collecting in the cavities of the boy's brain, and tubes had been implanted to drain it. At a certain point, the boy's physicians wanted to operate and replace the tubes, apparently because they had become blocked or infected. The boy's father, R' Moshe Soloveitchik, agreed to the operation, but his mother did not, out of her desire to end her son's suffering by allowing him to die. A Chicago court sided with the mother and refused to order that the surgery be performed; the boy died two days after the verdict.

Rav Waldenberg declares that in his opinion, *da'as Torah* is in accordance with the father in agreeing to the medical recommendation, and the mother was absolutely incorrect and misguided in her compassion. He insists that life

⁶ Igros Moshe C.M. *cheilek 2 siman 73 os 1* (see Rav Dr. Gidon Rothstein's write-up of this *teshuvah* here).

⁷ *Ibid.* *siman 74 os 1*. Cf. *Shu"t Minchas Shlomo kama siman 91 os 24* (cited in Nishmas Avraham *ibid.*).

⁸ *Ibid.* *os 2*.

⁹ Nishmas Avraham *ibid.* p. 487.

¹⁰ *Ibid.* p. 488.

¹¹ Regarding the apparent implication to the contrary from the Gemara's account of R' Chanina ben Tradion's death (*Avodah Zarah 18a*), see Igros Moshe Y.D. *cheilek 2 ibid.*; C.M. *cheilek 2 siman 73 os 3* and *siman 74 os 2*.

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building that houses it (Shulchan Aruch Y.D. 145:3).

Not only are tangible benefits prohibited, but even intangible ones like enjoying shade, as the Mishnah states that one may not sit under the shade of an Asheirah tree (*Avodah Zarah 48b*).

But the *poskim* debate whether the outdoor shade of a building wall is like that of a tree. The Ra'avad distinguishes between them, arguing that a tree (like the roof of a building) has the primary function of protecting the area beneath it, so in the case of *avodah zarah*, its shade is forbidden; but the walls of a building are primarily made to protect the area *within* them, so utilizing their shade outdoors is not considered having *hana'ah* from them.

However, many *poskim* do not differentiate between trees and buildings (see Shulchan Aruch Y.D. 142:10), so you must avoid benefiting from the shade cast by a church.

However, this applies only if there are no other seating areas available, even sunny ones. In the event that you can't find any picnic area at all other than the spot shaded by the church, you may picnic there, provided you don't deliberately intend to derive pleasure from the shade. (Shulchan Aruch *ibid.* 9; see also Taz *ibid.* 14.)

Note that picnicking directly on the church's property in its shade (even with permission) is forbidden, even if no other spot is available (see Shach *ibid.* 20).

must be preserved no matter its quality, and he adduces proof from *Chazal* that even a life of pain and inescapable suffering is preferable to death.¹²

¹² *Shu"t Tzitz Eliezer cheilek 18 siman 62* (discussed by Rav Dr. Gidon Rothstein in a *shiur* here, summarized by him here). Cf. *cheilek 13 siman 89*.

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RAV ARYEH FINKEL

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in the mouth and thus are swallowed in liquid form as a beverage.²

² Some students of R' Moshe argue that this applies only to ices, which melt into liquid, while others hold that R' Moshe applies the same principle to ice cream, though it contains other ingredients as well.

cited in the name of R' Moshe Feinstein—frozen desserts melt

Some people recite *shehakol* over a piece of candy or chocolate, which certainly require a *bracha*, thereby exempting the ice cream. One could argue that both the suggestion of the *Acharonim* to use sugar and the contemporary practice of using chocolate are questionable, due to concerns about the correct *bracha* on these foods. Some *poskim* recommend using salt instead, to avoid a *safek bracha*. But others defend the practice and

explain that candy is preferable to salt, from which one generally derives no benefit whatsoever.

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